

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

REMON MCDANIEL,

Plaintiff,

v.

M. SPEARMAN,

Defendant.

Case No. [18-cv-04656-SI](#)

**ORDER DENYING REQUEST FOR  
COUNSEL AND EXTENDING  
DEADLINE**

Re: Dkt. Nos. 13, 15

Petitioner has filed a request that counsel be appointed to represent him in this action. A district court may appoint counsel to represent a habeas petitioner whenever “the court determines that the interests of justice so require” and such person is financially unable to obtain representation. 18 U.S.C. § 3006A(a)(2)(B). The decision to appoint counsel is within the discretion of the district court. *See Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986). Appointment is mandatory only when the circumstances of a particular case indicate that appointed counsel is necessary to prevent due process violations. *See id.* The interests of justice do not require appointment of counsel in this action as it appears to be time-barred. The request for appointment of counsel is DENIED. Docket No. 13.

Respondent has requested an extension of the deadline to file a reply in support of his motion to dismiss the petition as untimely. Upon due consideration of the request and declaration of attorney Bridget Billeter, the court GRANTS the request for an extension of the deadline to file a reply in support of the motion to dismiss. Docket No. 15. Respondent must file and serve his reply brief, if any, no later than **January 31, 2019**.

**IT IS SO ORDERED.**

Dated: January 4, 2019



SUSAN ILLSTON  
United States District Judge